

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

D'Pergo Custom Guitars, Inc.

v.

Civil No. 17-cv-747-LM

Sweetwater Sound, Inc.

SECOND FINAL PRETRIAL ORDER

1. Date of Pretrial Conference: June 14, 2021.
2. Counsel Present: Attorneys Robert Allen, Robert Steiner, Lawrence Hadley and Thomas Burke for the plaintiff; Attorneys Edward Sackman, Lauren Pritchard and Richard Gagliuso for the defendant.
3. Type of Trial: Civil.
4. Date of Trial: Jury selection will take place on **June 22, 2021**, with trial beginning the same day.
5. Estimated Length of Trial: Five days.
6. Stipulations: Parties shall file any stipulations on or before **June 21, 2021**.
7. Motions: To the extent counsel has disputed evidentiary or other legal questions that can be resolved before trial, the court will entertain these matters at a status conference on **June 21, 2021**, at **9:00 a.m.** To the extent that the dispute requires detailed legal research, any written memoranda shall be filed on or before **June 17, 2021** at **noon**. Responses due **June 18, 2021** at **noon**.
8. Jury Selection: Court to issue separate order.
9. Exhibits and Exhibit Lists: One thumb drive and one paper copy of the exhibits are to be premarked and submitted to the Clerk's Office not later than **June 15, 2021**, in accordance with the document entitled "Procedure For Marking Exhibits" which is attached hereto and made a part hereof. Any

objections to exhibits shall be set forth briefly in writing and filed with the exhibits. Counsel shall notify each other at the time the exhibits are submitted if any custodian will be required for any exhibit.

10. Deposition Transcripts: Prior to trial, parties shall stipulate with respect to portions of any videotaped (or other) deposition testimony that any party intends to admit. The court anticipates that the parties will negotiate in good faith to avoid litigating the admissibility of portions of any deposition transcript. To the extent the parties cannot reach a stipulation, they shall bring any disputes to the attention of the court on or before **June 21, 2021, at 9:00 a.m.** Any disputes regarding admissibility of portions of deposition testimony shall be presented in a motion that outlines the disagreements and attaches the entire deposition transcript or those portions necessary for the court to issue a ruling. The disagreements shall be outlined in chart format as follows (or in substantially similar fashion):

Page/Line	Basis for Admissibility	Basis for objection

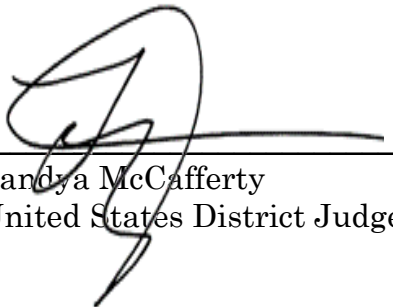
Additionally, on or before **June 21, 2021, at 9:00 a.m.**, counsel shall submit any agreed-upon instruction to give the jury at the time that the deposition evidence is admitted.

11. Public Access: The court will issue a public access order.
12. Reserved Seating in the Courtroom: Each side is allowed no more than a total of four attorneys (or legal assistants) in the well of the courtroom. Each side will have three reserved seats in the public gallery of the courtroom. The general public will have two additional seats that will be assigned on a “first come, first serve” basis. To the extent a party needs an additional reserved seat in the gallery of the trial courtroom, that party must seek the approval of the court’s case manager—who will coordinate with the court staff in advance of that trial date. There will be an “overflow” courtroom for 15 additional people. Seats will be available in the overflow courtroom on a “first come, first serve” basis.
13. Electronic Evidence: JERS shall be used in this case. The parties are directed to the United States District Court’s policy regarding electronic evidence which applies in this case. See Presenting Electronic Evidence to Deliberating Petit Jurors located at <http://www.nhd.uscourts.gov/jury-evidence-recording->

system-jers. JERS exhibits are due to the Clerk's Office on a thumb drive not later than **June 15, 2021**. Note that the JERS thumb drive is different from the thumb drive referred to in paragraph 14 (trial exhibits). Follow the instructions that apply to JERS exhibits.

14. "Will-Call" Witness List: The parties shall exchange and file a list of witnesses they intend to call at trial at the time they pre-mark and submit exhibits. The parties will be bound by the witnesses disclosed in this list absent extraordinary circumstances.
15. Efficient Use of Jury Time: To the extent possible, parties shall anticipate and notify the court of any evidentiary disputes that can be discussed outside the presence of the jury. The court intends to utilize jury time in the most efficient manner possible. **This is especially the case during this pandemic.** The court will give counsel an opportunity to alert the court at each break during the trial and at the beginning and end of each day of trial. The court will meet with counsel at least one-half hour before the trial is scheduled to begin each day of trial. Counsel should anticipate meeting with the court at the end of each day of trial, as necessary.
16. Confirm Date and Time of Jury Selection: In order to utilize the court's resources to the fullest extent and keep counsel informed as to their status on the trial list, counsel are directed to call Courtroom Deputy Jennifer Sackos at (603) 225-1475 to confirm the date and time of jury selection.

SO ORDERED.



Landya McCafferty
United States District Judge

June 15, 2021

cc: Counsel of Record.